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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

KAILON TODD MATTHEWS,

Defendant and Appellant.

F077735

(Super. Ct. No. SUF22128)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Merced County. Mark V. Bacciarini, Judge.

Richard L. Fitzer, under appointment by the Court of Appeal, for Defendant and Appellant.

Office of the State Attorney General, Sacramento, California, for Plaintiff and Respondent.

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* Before Detjen, Acting P.J., Franson, J. and Meehan, J.

Appellant Kailon Todd Matthews appeals from the denial of his motion for resentencing pursuant to Penal Code sections 1385¹ and 12022.5. Following independent review of the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436, we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

On January 12, 1998, as part of a plea bargain Matthews pled no contest to voluntary manslaughter (§ 192, subd. (a)/count 1) and assault by means of force likely to produce great bodily injury (§ 245, subd. (a)(1)/count 2) and he admitted a personal use of a firearm enhancement (§ 12022.5, subd. (a)(1)) in each count. Pursuant to his negotiated plea, Matthews agreed to a stipulated prison term of 26 years and he waived his right to appeal.

On February 10, 1998, the court sentenced Matthews to the stipulated term of 26 years that included a firearm enhancement in each count.

On October 11, 2017, the Governor approved Senate Bill No. 620, which went into effect on January 1, 2018. This bill added the following language to the firearm enhancement provisions in section 12022.5:

“The court may, in the interest of justice pursuant to Section 1385 and at the time of sentencing, strike or dismiss an enhancement otherwise required to be imposed by this section. The authority provided by this subdivision applies to any resentencing that may occur pursuant to any other law.” (§ 12022.5, subd. (c); Stats. 2017, ch. 682, § 1.)

On March 29, 2018, Matthews filed a pro se motion for resentencing pursuant to section 1385 and section 12022.5, as amended.

On April 20, 2018, the trial court denied Matthews’s motion to resentence him, in pertinent part, because Matthews’s case was final and the 2018 amendment to section 12022.5 did not apply retroactively to cases that were final. (See e.g., *People v. Billingsley* (2018) 22 Cal.App.5th 1076, 1079-1080.)

¹ All statutory references are to the Penal Code.

On June 25, 2018, Matthews's appeal in this matter was filed.

Matthews's appellate counsel has filed a brief that summarizes the facts, with citations to the record, raises no issues, and asks this court to independently review the record. (*People v. Wende, supra*, 25 Cal.3d 436.) Matthews has not responded to this court's invitation to submit additional briefing.

Following an independent review of the record, we find that no reasonably arguable factual or legal issues exist.

DISPOSITION

The judgment is affirmed.